

VZCZCXRO4883  
PP RUEHCHI RUEHPW  
DE RUEHBI #0029/01 0301219  
ZNR UUUUU ZZH  
P R 301219Z JAN 08  
FM AMCONSUL MUMBAI  
TO RUEHC/SECSTATE WASHDC PRIORITY 5972  
INFO RUEHNE/AMEMBASSY NEW DELHI 7182  
RUEHCG/AMCONSUL CHENNAI 1631  
RUEHBI/AMCONSUL MUMBAI 1050  
RUEHCI/AMCONSUL KOLKATA 1446  
RHEHAAA/NSC WASHINGTON DC  
RUEAIIA/CIA WASHDC  
RUCNIND/ALL INDO COLLECTIVE

UNCLAS SECTION 01 OF 02 MUMBAI 000029

SIPDIS

SIPDIS

DEPT PASS TO DRL/IRF FOR JOANELLA MORALES

E.O. 12958: N/A

TAGS: [PHUM](#) [PGOV](#) [PREL](#) [IN](#)

SUBJECT: BILKIS BANO VERDICT - A MUMBAI COURT HANDS OUT SENTENCES IN  
A SYMBOLIC 2002 GUJARAT RIOT CASE

MUMBAI 00000029 001.2 OF 002

11. (U) SUMMARY: On January 21, 2008, a special court in Mumbai convicted 12 Hindu men for their roles in the rape of Bilkis Bano and the murder of her relatives during the Gujarat riots of 12002. The court sentenced 11 of 19 accused men to life in prison on rape and murder charges and one policeman to three years in prison for falsifying evidence. The court refrained from using the death penalty and acquitted five policemen and two doctors accused of destroying evidence. Despite the acquittals, which Bano plans to appeal, the conviction and sentencing of a policeman is being hailed as an important legal precedent for bringing government officials complicit in communal crimes to justice. The Government of Gujarat deserves no credit for this conviction, however, as its inability to provide a fair trial for this case resulted in its transfer out of state. Although Human Rights groups are largely happy with the result in this case, the continuing need to try these cases outside of Gujarat will make more such victories difficult to achieve. End Summary.

#### Bilkis Bano Sentences Delivered

-----

12. (U) In March 2002, during the communal violence which swept the state of Gujarat, a raging mob gang-raped Bilkis Bano, who was pregnant at the time, and murdered 8 members of her family, including her three-year-old daughter, and six other members of her village. In 2004, following the local government's failure to provide a proper police investigation of the incident and its subsequent decision to drop the case, the Supreme Court ordered the Central Bureau of Investigation to reopen the case and transfer the trial to the neighboring state of Maharashtra on the grounds that a fair trial was not possible in Gujarat. Bano, who has remained in hiding since 2002, served as the primary witness in the trial which ultimately brought many of her attackers to justice. Bano's case is now the second Gujarat riot case to be transferred out of the state to be tried in a special Mumbai court.

#### Background - The Gujarat Riots

-----

13. (U) About 1,000 people (a majority of them Muslims) were killed in three months of violent anti-Muslim reprisals from March to May 2002 after a train carrying Hindu pilgrims returning from the site of a destroyed mosque in Ayodhya caught

fire in unclear circumstances resulting in the death of 59 Hindus. Hindu groups blamed a Muslim mob for the fire, although a 2006 inquiry later claimed that it was an accident. Many accused the Government of the Hindu-nationalist Bharatiya Janata Party (BJP) for indirectly supporting the violence by failing to provide any preventative measures.

¶4. (U) Of the initial 4,000+ cases registered against the rioters, over 2,000 were dismissed by the Gujarat police for lack of evidence. By 2004, only a handful of Hindus had been convicted for crimes related to the 2002 riots and most of the accused had been acquitted due to lack of witnesses or evidence.

In the few emblematic cases where convictions have been delivered, including the Best Bakery case and the Bilkis Bano case, a civil rights group has intervened to assist in protecting the witnesses and provide for their well-being, covering substantial legal charges. (Note: In 2006, in the "Best Bakery Case", a Mumbai retrial sentenced nine Hindus to life for an arson attack on a bakery during the riots that left 12 Muslims dead. The original trial had resulted in acquittals, amid accusations of witness intimidation. Following this verdict in 2007, a local court in Godhra, Gujarat convicted 11 individuals on similar charges suggesting federal oversight may be having an effect on local courts in Gujarat. End Note.)

Comment

-----

¶5. (U) Observers of the Gujarat justice process are divided about the efficacy of retrials outside the state. While legal scholars have stated that transferring cases outside Gujarat sets a bad precedent, plaintiffs continue to demand such transfers on the grounds that they continue to endure political interference amid an atmosphere of fear. At the same time, the NGOs that have assisted victims with the two re-trial cases believe that moving these cases to Mumbai led to the Gujarat lower judiciary becoming more cautious in hearing other riot related cases. The transfer of the "Best Bakery" and "Bilkis

MUMBAI 00000029 002.2 OF 002

Bano" cases outside the state may have contributed to a handful of convictions in pursuant cases heard in Gujarat.

¶6. (U) Despite the Bano convictions, NGOs are not confident that justice will be delivered to the majority of Gujarat's Muslim victims. Gagan Sethi of "Janvikas" who assisted in the Bano case, informed us, "I have overstayed my welcome at all my Mumbai relatives' houses. Your city is very expensive. My small NGO simply does not have the wherewithal to see another case through." At the same time, independent observer Anosh Malekar, currently writing a book on the Gujarat riots of 2002, informed us that justice may not be the primary objective for many of the victims, stating, "for the poor, ultimately, peace is more important than justice. They would much rather resume normal lives again, than insist on ephemeral justice from an ill-performing judicial process. The powers that be in Gujarat know that they just have to be thick-skinned and wait it out until the victims give up." Bano echoed this sentiment at a recent press conference in Delhi following the court verdict, stating, "The last six years have been terrible. I have had to change homes many times and have had to stay away from Gujarat because the government and police refused to protect me... I want to educate my children and lead a peaceful life." While justice was ultimately delivered to Bilkis Bano, no credit is due the Government of Gujarat which proved unable to provide for a fair trial and required federal interference to bring the perpetrators to justice. With the recent conviction of 11 people in a Godhra court, activists hope that courts in Gujarat may begin adjudicating more outstanding cases fairly. End comment.

OWEN